

EXHIBIT 12

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 No. 5:16-cv-10444
IN RE: FLINT WATER CASES Hon. Judith E. Levy
5 Mag. Mona K. Majzoub

6 Elnora Carthan, et al.,

7 Plaintiffs,

8 vs.

Civil Action No.
5:16-cv-10444-JEL-MKM

9 Governor Rick Snyder,
10 et al.,
11 Defendants.

12
13
14
15
16 HIGHLY CONFIDENTIAL
17 VIDEOTAPED DEPOSITION OF DAUGHERTY JOHNSON
18 VOLUME I
19 Tuesday, December 17, 2019
20 at 9:09 a.m.

21 Taken at: Butzel Long
22 41000 Woodward Avenue
23 Bloomfield Hills, Michigan 48304
24 REPORTED BY: CAROL A. KIRK, RMR/CSR-9139
GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

1 A P P E A R A N C E S

2 - - -

3 On behalf of the Class Plaintiffs:

4 PAUL F. NOVAK, ESQUIRE
WEITZ & LUXENBERG, P.C.
3011 West Grand Boulevard, Suite 2150
5 Detroit, Michigan 48202
313-800-4170
6 pnovak@weitzlux.com

7 On behalf of Individual Plaintiffs:

8 COREY M. STERN, ESQUIRE
LEVY KONIGSBERG LLP
800 3rd Avenue, 11th floor
9 New York, New York 10022
212-605-6200
10 cstern@levylaw.com

11 On behalf of the Mason State Court Plaintiffs:

12 ADAM T. SCHNATZ, ESQUIRE
MCALPINE PC
3201 University Drive, Suite 200
13 Auburn Hills, Michigan 48326
248-373-3700
14 atschnatz@mc Alpinepc.com

15 On behalf of the People of the State of Michigan:

16 RICHARD KUHL, ASSISTANT ATTORNEY GENERAL
DANA NESSEL, ATTORNEY GENERAL
525 West Ottawa Street, 6th Floor
17 Lansing, Michigan 48909
517-335-7664
18 kuhl@michigan.gov

19 On behalf of Defendant City of Flint:

20 WILLIAM KIM, ASSISTANT CITY ATTORNEY
CITY OF FLINT LEGAL DEPARTMENT
1101 South Saginaw Street, 3rd Floor
21 Flint, Michigan 48502
810-766-7146
22 wkim@cityofflint.com

23

24

1 A P P E A R A N C E S (CONT'D)

2 - - -

3 On behalf of Defendants Veolia Water North America
4 Operating Services, LLC, Veolia North America, LLC, and
5 Veolia North America, Inc.:

6 DAVID M. ROGERS, ESQUIRE

7 ALAINA N. DEVINE, ESQUIRE

8 CAMPBELL CONROY & O'NEIL, P.C.

9 1 Constitution Wharf, Suite 310

10 Boston, Massachusetts 02129

11 617-241-3063

12 drogers@campbelltriallawyers.com

13 adevine@campbelltriallawyers.com

14 On behalf of Defendants Leo A. Daly Company and
15 Lockwood, Andrews & Newnam, Inc.:

16 PHILIP A. ERICKSON, ESQUIRE

17 PLUNKETT COONEY, P.C.

18 325 East Grand River

19 City Center, Suite 250

20 East Lansing, Michigan 48823

21 517-333-6598

22 perickson@plunketcooney.com

23 and

24 TRAVIS S. GAMBLE, ESQUIRE

DRINKER BIDDLE & REATH LLP

1717 Main Street, Suite 5400

Dallas, Texas 75201

469-357-2534

travis.gamble@dbrr.com

On behalf of Defendant Rowe Professional Services
Company:

CRAIG S. THOMPSON, ESQUIRE

SULLIVAN, WARD, ASHER & PATTON, PC

25800 Northwestern Highway, Suite 1000

Southfield, Michigan 48075

248-746-0700

cthompson@swappc.com

1 A P P E A R A N C E S (CONT'D)

2 - - -

3 On behalf of Defendant Howard Croft:

ALEXANDER S. RUSEK, ESQUIRE

4 WHITE LAW PLLC

2549 Jolly Road, Suite 340

5 Okemos, Michigan 48864

517-316-1195

6 alexrusek@whitelawpllc.com

7 On behalf of Defendant Daugherty Johnson:

EDWAR A. ZEINEH, ESQUIRE

8 2800 East Grand River Avenue, Suite B

Lansing, Michigan 48912

9 517-292-7000

zeinehlaw@gmail.com

10 and

LAUREN SAMONA, ESQUIRE

11 BAJOKA LAW GROUP PLLC

500 Griswold, Suite 2320

12 Detroit, Michigan 48226

313-462-0537

13 laurensamona@bajokalaw.com

14 On behalf of McLaren Regional Medical Center (via
teleconference):

15 SUSAN E. SMITH, ESQUIRE

BEVERIDGE & DIAMOND, P.C.

16 456 Montgomery Street, Suite 1800

San Francisco, California 94104

17 1-415-262-4000

ssmith@bdlaw.com

18

On behalf of Defendants Bradley Wurfel and Daniel Wyant
19 (via teleconference):

CHRISTOPHER B. CLARE, ESQUIRE

20 CLARK HILL PLC

1001 Pennsylvania Avenue NW, Suite 1300 South

21 Washington, DC 20004

202-572-8671

22 cclare@clarkhill.com

23

24

1 A P P E A R A N C E S (CONT'D)

2 - - -

3 On behalf of Defendant Jeffrey Wright (via
teleconference):

4 MATTHEW T. WISE, ESQUIRE
FOLEY MANSFIELD, PLLP
5 130 East 9 Mile Road
Ferndale, Michigan 48220
6 248-721-4200
mwise@foleymansfield.com

7

On behalf of Individual Plaintiffs (via teleconference):

8 RAQUEL MUÑOZ, ESQUIRE
FIEGER LAW
9 19390 West Ten Mile Road
Southfield, Michigan 48075-2463
10 248-355-5555
r.munoz@fiegerlaw.com

11

On behalf of the DEQ Employee Defendants (via
12 teleconference):

JARED A. ROBERTS, ESQUIRE
13 FRASER TREBILCOCK
124 West Allegan Street, Suite 1000
14 Lansing, Michigan 48933
517-482-5800
15 jroberts@fraserlawfirm.com

16

17 ALSO PRESENT:

18 Jeff Gudme, Videographer

19 - - -

20

21

22

23

24

1 time -- we're referring to Mr. Jerry Ambrose,
2 right?

3 A. Correct.

4 Q. For some period of time
5 Mr. Ambrose served in the role as financial
6 manager for the city of Flint, true?

7 A. Yes.

8 Q. And then as of a certain point in
9 time, he actually became the emergency manager
10 for the city, too, right?

11 A. Correct.

12 Q. And isn't it true, Mr. Johnson,
13 that Mr. Ambrose overruled your recommendation
14 or your direction to your staff to get ready to
15 switch from the Flint River water back to
16 Detroit?

17 A. Yes, he did.

18 Q. And you weren't happy about that,
19 were you?

20 A. I was not.

21 Q. Is that the reason that you left
22 the employ of the city shortly thereafter in
23 April 2015, in part anyway?

24 A. That is certainly part of it.

1 Q. And the reason for that was you
2 were upset about the fact that Mr. Ambrose
3 overruled a direction that you gave to your
4 staff to get ready to switch from Flint River
5 water back to Detroit water, right?

6 MR. ZEINEH: Objection.

7 A. Yes.

8 MR. ZEINEH: Form, foundation.

9 Q. And you were angry about that,
10 right?

11 A. I was concerned about it, yes.

12 Q. And you left. You left your
13 employment with the city where you had been
14 employed for how long?

15 A. Twenty-four years.

16 Q. And --

17 A. Twenty-three years, something like
18 that, yes.

19 Q. To what percent or what extent was
20 that the reason that you left as opposed to
21 something else? Was that a major part of the
22 reason that you left?

23 A. Yes, it was.

24 Q. And at the time, sir -- and you

1 testified in the criminal hearing, I'll remind
2 you, but you believe that Flint had the money
3 available to pay for the water from Detroit at
4 that time, right? There was money available to
5 do that, right?

6 A. We could have charged more for the
7 service, yes.

8 Q. So it would have cost more, but
9 you thought the city of Flint had the financial
10 wherewithal to do that, to return to Detroit
11 water in February of 2015, right?

12 A. Yes.

13 Q. And you directed your staff to
14 make plans to do that, and you were overruled by
15 Mr. Ambrose, right?

16 A. Yes.

17 Q. And the decision was made by
18 Mr. Ambrose not to go to Detroit water to save
19 money; isn't that true?

20 A. Yes.

21 MR. KIM: Objection; foundation.

22 - - -

23 (Johnson Deposition Exhibit 87 marked.)

24 - - -

1 BY MR. ROGERS:

2 Q. And, in fact, would you take a
3 look at Exhibit 87, please. I showed you this
4 before we got started today. But have you seen
5 this letter from Mr. Ambrose to the treasurer
6 for the state of Michigan or the treasury
7 department before? Mr. Johnson?

8 A. I have to give it a read first.

9 Q. Okay. Thank you. I thought you
10 had. I'm sorry.

11 Okay. Have you had a chance to
12 read it? So this is a letter -- I'm going to
13 put it on the Elmo so the jury can see it.

14 This is a letter from Mr. Ambrose.
15 It's got the letterhead up at the top, City of
16 Flint, and it's to Wayne Workman, Deputy
17 Treasurer, Treasury Department, State of
18 Michigan," dated December 3, 2015, right?

19 A. Yes -- March 3rd.

20 Q. And were you aware of the fact
21 that as of March 3, 2015, that Mr. Ambrose was
22 writing this letter to the deputy treasurer for
23 the state of Michigan?

24 A. I don't recall if I was aware of

1 it beforehand.

2 Q. But this is consistent with --
3 what Mr. Ambrose's reporting to the treasury
4 department is consistent with your testimony
5 that you just gave that Mr. Ambrose overruled
6 your recommendation to go from the Flint River
7 back to the Detroit river -- I mean, sorry -- to
8 the Detroit Water Authority that was providing
9 the water, right?

10 MR. KUHLE: Objection to form.

11 Q. Is that true?

12 A. That is correct.

13 Q. And the reason that he's saying
14 it, as is stated in this paragraph, is to save
15 money, right?

16 MR. KUHLE: Objection to form.

17 Q. It would cost more, he is
18 reporting, if the city of Flint were to return
19 to the Detroit water, right?

20 MR. KUHLE: Object to form.

21 A. That is correct.

22 Q. To the tune of \$12 million, right?

23 A. That's what the letter states,
24 yes.

1 Q. Did you see this letter -- did you
2 see that letter at the time it was written,
3 approximately sometime in March?

4 A. I don't recall if I did around
5 then or not.

6 Q. But you already knew that you had
7 been overruled by Mr. Ambrose at that time,
8 right?

9 A. Yes.

10 Q. And had you made the decision to
11 leave your employment with the city of Flint
12 after 24 years as a result of this by that time?

13 A. Yes. I believe so, yes.

14 Q. My -- I have an understanding that
15 you were on vacation for a good portion of
16 February 2015; is that true?

17 A. Correct.

18 Q. So you didn't have much, if any,
19 interaction with the Veolia personnel who were
20 working at the -- working with the treatment
21 plant fellows at that time?

22 A. I did not.

23 Q. The Veolia personnel would have
24 been working with Mr. Glasgow and Mr. Wright at

1 A. The six months wasn't tied to
2 that. We wanted to use it as soon as we could.
3 The six months was tied to the corrosion control
4 sampling protocol, not the lime sludge lagoon.

5 Q. So at some point during your
6 tenure before you retired in 2015, did you start
7 using the lime agent at the Flint water plant?

8 A. Yes.

9 Q. When was that?

10 A. I don't know the exact dates, but
11 it was used before I left.

12 Q. Okay. Is it fair to say that if
13 the city of Flint -- to your knowledge, is it
14 fair to say that if the city of Flint had not
15 gotten the \$85 million in bonds from JPMorgan
16 Chase when it did, that the KWA project would
17 have either been delayed or fallen through?

18 A. That is my understanding, yes.

19 Q. And if that would have happened,
20 what do you believe Flint would have done with
21 regard to obtaining water for its citizens?

22 MR. ZEINEH: Objection as to form,
23 foundation.

24 A. The options would have been using

1 the Flint River or signing a 30-year contract
2 with Detroit.

3 Q. And did anybody ever express to
4 you above you, you know, above your -- again,
5 not in life, but, you know, in work, that it
6 was -- it was not -- that switching back to the
7 Detroit water was something that was just not
8 going to happen?

9 A. That was certainly a statement
10 made by Jerry Ambrose at times after we had
11 switched over to the Flint River.

12 Q. When Mr. Kurtz testified -- you
13 know, I'm not going -- I don't want to quote his
14 testimony, but I have the distinct sense from
15 him that as emergency manager, he had absolutely
16 no desire to go back to the Detroit water once
17 they terminated the contract with the city of
18 Flint and once the KWA became a viable option
19 for the city.

20 Did you ever have that same
21 impression from Mr. Kurtz?

22 A. Yes.

23 Q. Okay. Did you ever have that same
24 impression from Mr. Ambrose?

1 A. Yes.

2 Q. And was it Mr. Ambrose -- what was
3 Mr. Ambrose's role -- as emergency manager, what
4 was Mr. Ambrose's role in the administrative
5 consent order?

6 A. I believe he signed it. My
7 recollection, he would have been the one to sign
8 that document, but that's my recollection of it.

9 Q. Do you know a man named
10 Mr. Massaron?

11 A. I've been on e-mails with him,
12 yes.

13 Q. He's an attorney?

14 A. Yes.

15 Q. Do you know if he and Mr. Ambrose
16 were tight?

17 A. I don't know that. They had
18 e-mails back and forth and ...

19 Q. Did you ever get the impression
20 that Mr. Ambrose and Mr. Massaron were close
21 beyond their working relationship?

22 MR. ZEINEH: Objection as to form
23 and foundation.

24 A. I didn't know enough to make an